

In the Matter of License No. 94696

Issued to: EDWIN C. GEICK

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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EDWIN C. GEICK

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 27 April, 1951, an Examiner of the United States Coast Guard at Mobile, Alabama, revoked License No. 94696 issued to Edwin C. Geick upon finding him guilty of negligence based upon two specifications alleging in substance that while serving as Master on board the American SS ESSO SUEZ under authority of the document above described, on or about 20 April, 1951, while said vessel was at sea, he failed to go at a moderate speed in fog in violation of Article 16 of the International Rules; and while navigating in fog, he failed to stop the vessel's engines and navigate with caution after the radar indicated that another vessel was forward of the beam of the ESSO SUEZ at a distance of approximately three miles. It is alleged that Appellant's negligence contributed to a collision between the ESSO SUEZ and ESSO GREENSBORO with the resulting loss of approximately thirty-nine lives and great damage to both vessels.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. He was represented by counsel of his own selection and entered a plea of "not guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement prior to introducing in evidence the testimony of seven crew members of the ESSO SUEZ and several documentary exhibits.

After counsel's motion to strike the second specification had been denied, Appellant offered in evidence the testimony of two seamen from the ESSO GREENSBORO as well as testifying under oath in his own behalf.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specifications and entered the order revoking Appellant's License No. 94696 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged: (1) the order is improper and excessive; (2) the second specification fails to set forth facts constituting a violation of any statute; (3) the order is defective since it fails to specify on which specification it is based and, therefore, it might be based, in whole or in part, upon the defective second specification; and (4) the order fails to permit Appellant to apply for a Chief Mate's license despite the fact that the charge was negligence and not misconduct.

APPEARANCES: Messrs. Kirlin, Campbell and Keating of New York City by Walter L. Hopkins, Esquire, and Raymond T. Greene, Esquire, of Counsel.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 20 April, 1951, Appellant was serving as Master on board the American SS ESSO SUEZ and acting under authority of his License No. 94696 while said vessel, a steam turbine tanker, was proceeding with ballast in the Gulf of Mexico enroute from Baltimore, Maryland, to Aransas, Texas.

At about 0330 on this date, the SUEZ was on course 284 degrees true making normal full speed ahead of sixteen to seventeen knots when she ran into a heavy fog bank which limited the visibility considerably up to the time of the collision. Third Officer McLean, who was on the 2400 to 0400 watch, immediately advised Appellant of the fog, turned on the recently repaired radar and manually commenced blowing fog signals; but he did not reduce the speed of the vessel or change the engine telegraph. Appellant did not give McLean any instructions when notified of the foggy condition.

Appellant arrived on the bridge by 0335. He looked at the radar screen which was set on the eight mile scale and put the engine telegraph on stand-by but did not order any change in the speed of the ship. Appellant then remained on the bridge, alternating between the wheelhouse and the wings and occasionally scanning the radar scope. At about 0400, Appellant observed the image of a ship on the radar bearing one and a half to two and a half points on the starboard bow at a distance of about six miles. Second Officer Brophy, who had relieved the Third Officer of the watch, was instructed to notify Appellant as soon as he heard the whistle or saw the running lights of this vessel which was later identified as the tanker ESSO GREENSBORO. Appellant ordered a change of course from 284 to 270 degrees true in order to pass the GREENSBORO starboard to starboard. This action was taken without any attempt to ascertain the course of the other vessel.

By 0410, the automatic fog whistle was turned on since the fog had become progressively thicker and visibility was limited to a maximum of about 1500 feet. At about this time, Appellant again looked at the radar scope. It indicated that the vessel previously observed was bearing about four points on the starboard bow at a distance of three miles. Although Appellant still did not know the course of the GREENSBORO, he ordered a further course change to 260 degrees and then to 250 for the purpose of opening the bearing of the GREENSBORO to starboard.

Second Officer Brophy kept a lookout on the starboard wing of the bridge but he did not sight the GREENSBORO and hear her fog signal until the two ships were approximately 500 feet apart. This occurred at about 0420 when Brophy saw the red side light and the white light of the GREENSBORO between 10 and 20 degrees on the starboard bow of the ESSO SUEZ. Upon being informed of this by Brophy, Appellant immediately ordered hard left rudder and rang up stop on the engine telegraph. There had been no previous change of speed ordered from full ahead. Less than a minute later the bow of the SUEZ collided with and cut through the port side of the GREENSBORO at an angle of slightly less than ninety degrees. The ensuing fires which broke out on both vessels resulted in the loss of thirty-nine lives and extensive damage.

Until 0200 or later, the GREENSBORO had been steaming at 15 knots on course 106 degrees. There were no persons living at the time of the hearing who could testify as to the course of the GREENSBORO subsequent to this time. There is evidence to indicate that, at about 0410, the GREENSBORO commenced intended avoiding action by changing course to her starboard.

The only prior disciplinary action having been taken against Appellant was an admonition in 1945 for failure to report a casualty.

OPINION

It is contended on Appellant's behalf that he navigated the SUEZ cautiously and prudently except for his erroneous assumption that Third Officer McLean had reduced the speed of the ship before Appellant arrived on the bridge. It is claimed that the order imposed is excessive for this type of negligence and not in accordance with the standards established by some of my prior decisions involving collisions in fog. Appellant further states that the severity of the order was influenced by: (1) the death and injury toll which resulted due to the cargo aboard the ESSO GREENSBORO rather than judging Appellant solely in relation to the standard of care imposed by law on shipmasters navigating in fog; (2) the erroneous assumption by the Examiner that the two vessels were on collision courses at all times prior to the collision; (3) the failure of the Examiner to give sufficient mitigating weight to the evidence showing the grossly negligent navigation on the part of the GREENSBORO as opposed to Appellant's minor fault of omission in assuming that speed had been decreased; and (4) the failure to consider Appellant's past good record as has been done in other appeals before me.

The position that Appellant was guilty of negligence only to a minor degree for assuming that the Third Officer had reduced the speed of the SUEZ is not tenable. In the first place, the Examiner rejected Appellant's statement that he thought the vessel was proceeding at half speed. The Examiner's action in this respect is supported by substantial evidence to the effect that Appellant had himself operated the engine telegraph and put it on standby. If so, he was bound to have noticed the speed rung up. Secondly, it was extreme negligence on Appellant's part if he actually took over complete charge of the immediate navigational problems of the SUEZ, as clearly evidenced by his orders to change course, without definitely ascertaining the speed his ship was making in a dense fog. The full authority and responsibility of the Master over his vessel permits no doubt as to this. Consequently, Appellant was gravely at fault for proceeding at a rate of 1600 to 1700 feet a minute

in a fog which had cut down visibility to about 500 feet at the time of the collision and while approaching a ship which was on a course unknown to Appellant. In view of this, such other factors as the number of deaths and the negligence on the part of the other vessel cannot be considered as having caused the imposition of an order which it is claimed would, otherwise, have been much lighter.

Despite the change in the relative bearing of the GREENSBORO, the facts disclose that if at six miles the relative bearing of the GREENSBORO was two and a half points, then her true bearing from the SUEZ was practically the same at the time of the observation at a range of three miles. The change in relative bearing was offset by the change in the course of the SUEZ from 284 to 270. Thus, the two vessels might well have been on collision courses.

The numerous Coast Guard appeal cases which have been cited by Appellant are not persuasive to the belief that the order should be mitigated. In all of the cases mentioned, the orders imposed by the Examiners were substantially affirmed except in one case which merited special consideration due to personal circumstances and the revocation was modified as the result of these circumstances which did not infringe upon the statutory duty of the Coast Guard; and one case which dealt with a different situation than immoderate speed in fog as alleged herein and in the other cases cited by Appellant.

It is also urged that the order is defective since it is based on the conclusion that Appellant violated two legal standards of prudent navigation which are set forth in the two separate specifications; but that there was only a single violation since there is no requirement that the engines should have been stopped as alleged in the second specification. I do not concede that Appellant was not required to stop the engines of the SUEZ when the radar disclosed another vessel at a range of three miles; but, in any event, it can hardly be denied that it was incumbent upon Appellant to "navigate with caution" as set forth in the second specification. Although this placed a burden upon Appellant which was somewhat coextensive with his responsibility to proceed at a moderate speed as alleged in the first specification, the additional knowledge obtained by means of the radar placed a greater burden upon Appellant to avoid collision or even danger of a collision.

The record indicates that Appellant failed to utilize the radar by making frequent checks on the course and bearing of the GREENSBORO. Presumably, he ascertained the range and bearing only twice in a twenty minute period and made no attempt to estimate the course and speed of the other ship. According to Appellant's testimony as to the relative position of the two vessels at different time intervals, the GREENSBORO was dangerously near the SUEZ - and Appellant should have reduced speed to that which would have permitted him to avoid collision if and when the opposing vessel became visible in the fog.

CONCLUSION

Appellant permitted a large tanker under his command to proceed at a speed of sixteen knots under conditions of very poor visibility while approaching a vessel whose course he did not know. This speed was immoderate and directly contributed to the collision between the SUEZ and the

GREENSBORO. The fact that Appellant was aided by the radar and, therefore, knew of the presence of the GREENSBORO adds weight to the proof that Appellant did not navigate the SUEZ with such caution as was required under the prevailing circumstances. But in consideration of Appellant's prior record which was completely clear of any violation of this nature, the order of the Examiner is modified to read as follows:

ORDER

Master's License No. 94696 issued to Edwin C. Geick is hereby revoked with leave granted to said Edwin C. Geick to obtain, upon proper application, a license as Chief Officer. As so modified, the order of the Examiner dated 27 April, 1951, is AFFIRMED.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 17th day of October, 1951.